

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

RICHMOND

IN THE MATTER OF KENNETH BULLOCK
DESIGNATED MANAGER FOR:
THE PALACE, INC.
THE PALACE ON PLUME ST.
200 EAST PLUME STREET
NORFOLK, VIRGINIA 23513

LICENSE NOS. 067091 - WINE AND BEER ON PREMISES
067091 - MIXED BEVERAGE RESTAURANT

INCIDENT NO. 201110200013
HEARING HELD At Chesapeake, Virginia
January 10, 2012

ADMINISTRATIVE
HEARING OFFICER CLARA A. WILLIAMSON

APPEARANCES FOR THE BOARD:

Ronald Turner, Special Agent

Gregory D. Underwood, Esq.
Norfolk Commonwealth Attorney
800 East City Hall Avenue
Suite 600
Norfolk, Virginia 23510

Brent A. Johnson, Esq.
Chief Deputy Commonwealth's Attorney
(Present but did not testify)

FOR THE LICENSED CORPORATION:

Kevin E. Martingayle, Esq.
Stallings & Bischoff, P.C.
2101 Parks Avenue, Suite 801
Post Office Box 1687
Virginia Beach, Virginia 23451-4160

Christopher Falk, Corporate President
(Present but did not testify)

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Kenneth Bullock, Proposed Designated Manager
David Seay, Consultant

Cite As:
IN RE: The Palace, Inc., #067091 (02/14/2012)
Reported by Melissa H. Custis, RPR

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C O M P L A I N T

(Wine and Beer On Premises)

(Mixed Beverage Restaurant)

Incident No. 201110200013

1. Kenneth Bullock, designated manager for The Palace on Plume St., has been convicted of a felony or of any crime or offense involving moral turpitude which would disqualify him as a designated manager, in violation of Section 4.1-225 1.d. of the Code of Virginia and 3 VAC 5-50-40.

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2 **FINDINGS OF FACT:**

3 1. The hearing in this matter was convened in order to
4 consider the charge set forth in the Notice of Informal
5 Conference/Hearing Before Hearing Officer and determined if Mr.
6 Kenneth Bullock should be disapproved as a designated manager,
7 License No. 067091 - Wine and Beer On Premises and Mixed
8 Beverage Restaurant - Incident No. 201110200013.

9 2. An Informal Conference was held prior to the hearing,
10 during which all parties were present and participated. These
11 proceedings were initiated by a request made by Mr. Christopher
12 Falk, corporate president of The Palace, Inc., t/a The Palace on
13 Plume St., that Mr. Kenneth Bullock be approved as an ABC
14 manager in the business. As set forth herein, Mr. Bullock was
15 convicted of a felony on June 12, 1995. The Bureau of Law
16 Enforcement Operations ("Enforcement") is neutral regarding the
17 approval of Mr. Bullock. An objection to his approval was made
18 by S. L. Chamberlain, Acting Chief of Police, Norfolk Police
19 Department and Gregory Underwood, Esq., Norfolk Commonwealth's
20 Attorney.
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22 3. There was no appearance at the hearing by any
23 representative of the Norfolk Police Department. Mr. Underwood
24 appeared on behalf of the Norfolk Commonwealth's Attorney's
25 Office. A Motion to Separate the witnesses was made by Kevin

1 Martingayle, Esq., counsel for the licensee, and granted on the
2 record by the Hearing Officer. Following commencement of the
3 hearing, the license file was made part of the record.

4 4. Special Agent Ronald Turner stated that on September
5 15, 2011, he received a letter from Mr. Christopher Falk,
6 corporate president, dated September 11, 2011, requesting
7 approval of Mr. Kenneth Bullock as an ABC manager. There were
8 four attachments to this letter, including the Judgment in a
9 Criminal Case from the United States District Court for the
10 Eastern District of Virginia entered on June 12, 1995; the
11 Report and Order Terminating Supervised Release executed by
12 Robert Ellis, Probation Officer; a personal data sheet; a copy
13 of a letter from Ms. Janet Polarek, Secretary of the
14 Commonwealth dated October 5, 2010 congratulating Mr. Bullock
15 for the restoration of his civil rights by Governor Robert
16 McDonnell; an Order of the Executive Department executed by
17 Governor McDonnell restoring his civil rights; and several
18 reference letters (Exhibit 1).
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20 5. In this letter, Mr. Falk stated that Mr. Bullock was
21 the owner of the property leased for operation of the business
22 and had shown a strong desire to be involved in its operation.
23 Mr. Falk further stated:

24 He (Mr. Bullock) was convicted of conspiracy to
25 distribute, possession with intent to distribute
cocaine on June 12, 1995... Mr. Bullock was originally

1 sentenced to 324 months in prison. He served six
2 years and was released from prison on September 21,
3 2001. It is my understanding that numerous convicted
4 felons throughout the state of Virginia have been
5 approved to be ABC managers as well as owners of
6 restaurants with ABC licenses. Mr. Bullock has proven
to be a productive citizen since his release. He
currently owns and operates Kebco Enterprises, Inc., a
construction company. He has owned this business for
ten years. He also runs Kebco of Virginia Hauling,
Inc.

7 (see Exhibit 1). Following receipt of this letter, Agent Turner
8 forwarded a letter dated September 30, 2011 to the Norfolk
9 Police Department and the Commonwealth's Attorney's Office,
10 attaching Mr. Falk's letter and requesting that representatives
11 of these offices submit their recommendations.

12 6. A letter dated September 23, 2011 from Brent Johnson,
13 Chief Deputy Commonwealth's Attorney was received by Agent
14 Turner. In this letter, Mr. Johnson expressed opposition to Mr.
15 Bullock's approval as an ABC manager (Exhibit 3). A similar
16 letter was received from S. L. Chamberlin, Acting Chief of
17 Police, Norfolk Police Department and submitted as Exhibit 2
18 which was taken under advisement. Because no representative
19 from the police department appeared at the hearing, the
20 objection to its receipt is sustained. However, it is noted
21 that this letter was contained in the license file, made part of
22 the record in this case.

24 7. As to Mr. Bullock's felony conviction, the Judgment in
25 a Criminal Case was entered on June 12, 1995 by the Honorable

1 Raymond Jackson, United States District Judge for the Eastern
2 District of Virginia. In this Judgment, it was indicated that
3 Mr. Bullock pleaded guilty to Conspiracy to Distribute and
4 Possession with Intent to Distribute Cocaine and a Mixture
5 Containing Cocaine Base, Sch. II (RE: 21:841 (a)(1) and 18.2).
6 He was sentenced to a term of imprisonment of 324 months and
7 five years of supervised release. Mr. Bullock served six years
8 in prison and was placed on supervised release on September 21,
9 2001 from which he secured an early release. In the Order of
10 Court entered on September 30, 2005 discharging Mr. Bullock from
11 supervised probation, it was stated that this action was taken
12 based upon the probation officer's report. In this report,
13 Robert Ellis, U.S. Probation Officer, stated:

14 The supervised releasee has complied with the rules
15 and regulations of supervised release and is no longer
16 in need of supervision. It is recommended that the
 supervised releasee be discharged from supervision.

17 (see Exhibit 1).

18 8. By letter dated October 5, 2010, Ms. Janet Polarek,
19 Secretary of the Commonwealth, advised Mr. Bullock that Governor
20 Robert McDonnell had granted his petition for restoration of his
21 civil rights and enclosed the Order executed by Governor
22 McDonnell as the official documentation. In this letter, Ms.
23 Polarek stated:

24 The restoration of civil rights is an act by the
25 Governor that is entirely within his discretion under

1 the Virginia Constitution. He has carefully
2 considered information regarding your conviction, the
3 successful completion of all obligations of your
4 sentence, your record since your conviction, and your
5 desire to accept responsibilities of good citizenship.
6 He has determined that you have the potential and
7 desire to be a valuable asset to our Commonwealth ...
8 (emphasis added).

9 Governor McDonnell's action on your behalf removes all
10 political disabilities imposed as the result of your
11 felony conviction except the right to ship, transport,
12 possess or receive firearms... You may now register to
13 vote, become a notary public, serve on a jury, or hold
14 public office (emphasis added).

15 Governor McDonnell and I extend our congratulations to
16 you for this achievement...

17 (see Exhibit 1).

18 9. Letters of reference for Mr. Bullock were submitted by
19 Mr. Paul Going, Executive Vice President of Towne Bank, and Rev.
20 Gregory Norris, Pastor/Founder of Friendship Baptist Church. In
21 a letter dated August 31, 2011, Mr. Going stated:

22 I personally have witnesses Kenny contribute to local
23 AAU and other charitable organizations and consider
24 him a friend and a real asset to our community.

25 (see Exhibit 1). In a letter dated August 24, 2011, Pastor
Norris stated:

This letter of thanks is being sent to acknowledge
your recent contributions made to Friendship Baptist
Church. Because of your generous support made to our
ministries over the last few years, we were able to
fulfill the many works that God had called us to do.

(see Exhibit 1).

1 10. Gregory Underwood, Esq., Norfolk Commonwealth's
2 Attorney, testified and voiced objection to the approval of Mr.
3 Bullock as a designated manager of the business. He stressed
4 that the objection was based upon the serious nature of the
5 felony committed by Mr. Bullock involving nine kilograms of
6 cocaine. He stated that based upon his examination of all of
7 the "aggravating facts" surrounding Mr. Bullock's conviction, he
8 could not support the request.

9 11. Because Mr. Underwood was unable to obtain a copy of
10 the factual stipulation that had been entered into in support of
11 Mr. Bullock's plea, he submitted two cases in which Mr.
12 Bullock's involvement in this crime was discussed in detail.
13 One is United States v. Kenneth Edward Bullock, 877 F. Supp. 270
14 (E.D. Va. 1995) in which the defendant's (Mr. Bullock's) Motion
15 to Suppress evidence obtained after he was stopped by the
16 Maryland State Police was considered. The other is United
17 States v. Kenneth Edward Bullock, 94 F. 3d 896 (4th Cir. 1996)
18 in which Mr. Bullock's appeal from the United States District
19 Court for the Eastern District of Virginia was considered. In
20 his plea agreement, Mr. Bullock reserved for appeal his right to
21 challenge the search and evidentiary rulings made at the
22 suppression hearing.¹ The Hearing Officer hereby takes official

24 ¹ Counsel for the licensee objected to the receipt of these decisions
25 on the basis that the facts discussed therein have been rendered moot
by subsequent events involving Mr. Bullock's actions subsequent to
conviction. The receipt of these decisions, marked as Exhibits 4(a)

1 notice of these decisions and receives copies submitted by Mr.
2 Underwood as Exhibits 4(a) and (b). The decision of the United
3 States District Court was affirmed and the Motion to Suppress
4 the cocaine found was denied.

5 12. Mr. Underwood acknowledged that he was aware that
6 Governor McDonnell had restored Mr. Bullock's civil rights. He
7 stated that he had not sought the Governor's approval prior to
8 objecting to the approval of Mr. Bullock as a designated
9 manager. His expressed view was that because the Commonwealth
10 attorney is elected, the Governor has no authority over that
11 office. He stated that although he had met with Mr. Bullock and
12 listened to his position, his mind was unchanged because of the
13 serious nature of the felony. According to Mr. Underwood, the
14 fact that the felony occurred in 1995 was irrelevant.

15 13. Mr. David Seay, former ABC agent, stated that since
16 his retirement in January 2008, he has served as a consultant to
17 ABC licensees. According to him, he has worked with The Palace
18 on Plume St. regarding Mixed Beverage Annual Reviews (MBARs) and
19 record keeping. In this context, he has worked with Mr. Bullock
20 and stated that Mr. Bullock had conducted himself as an
21 "upstanding citizen" for the past 10 years and he did not see a
22 problem with him serving as an ABC manager. He noted that Mr.
23 Bullock had successfully completed probation, had his civil
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and (b), was taken under advisement.

1 rights restored and owns a construction company (Kebco
2 Enterprises, Inc.) as well as a hauling company (Kebco of
3 Virginia Hauling, Inc.).

4 14. Mr. Kenneth Bullock stated that he owns the building
5 in which The Palace on Plume St. operates. He attended the
6 meeting of the Norfolk City Council on December 13, 2011, during
7 which an amendment was approved to a Special Exception for an
8 Entertainment Establishment. This was for the purpose of
9 modifying the identified managers and revise the floor plans and
10 Mr. Bullock's name was added to the list of ABC managers
11 approved by the City Council.² According to him, representatives
12 of the city made a presentation to the City Council in support
13 of his approval.

14 15. Mr. Bullock stressed that he is not the same person
15 now as at the time of his previous conviction, as he chose to
16 take a different route and give back to the community. He owns
17 and operates Kebco Enterprises, Inc., engaged in the building of
18 homes, and Kebco of Virginia Hauling, Inc. He has donated
19 school supplies to those in need through the corporations he has
20 formed and has also made contributions to Friendship Baptist
21 Church. He has not had any further criminal convictions since
22 1995.
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25 ² See approval executed by Marcus D. Jones, City Manager, Exhibit 5.

1 16. The licensee is a restaurant located in Norfolk,
2 Virginia. The request that Mr. Kenneth Bullock be approved by
3 the Board as an ABC manager was advanced by Mr. Christopher
4 Falk, corporate president. Wine and Beer On Premises and Mixed
5 Beverage Restaurant licenses were issued on November 23, 2010.
6 There are no Board Orders or written warnings.

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8 **CONCLUSIONS:**

9 The following charge is SUBSTANTIATED.

10 Kenneth Bullock, designated manager for The Palace on
11 Plume St., has been convicted of a felony or of any
12 crime or offense involving moral turpitude which would
13 disqualify him as a designated manager, in violation
14 of Section 4.1-225 1.d. of the Code of Virginia and 3
15 VAC 5-50-40.

16 The hearing in this matter was convened in order to
17 determine if Mr. Kenneth Bullock should be disapproved as a
18 designated manager. It is provided in 3 VAC 5-50-40 B. that the
19 Board reserves the right to disapprove any person as a
20 designated manager if any cause exists which would justify the
21 Board in refusing to issue such person a license, or that such
22 person has committed any act that would justify the Board in
23 suspending or revoking a license.

24 Under the provisions of Code Section 4.1-222 A.1.(b) the
25 Board may refuse to grant any license if the applicant as
26 defined in that section:

 Has been convicted in any court of a felony or any
 crime or offense involving moral turpitude under the
 laws of any state, or of the United States.

1 Under the provisions of Code Section 4.1-225 1.d., the
2 Board may suspend or revoke any license if the licensee as
3 defined in that section:

4 Has been convicted in any court of a felony or of any
5 crime or offense involving moral turpitude under the
6 laws of any state, or of the United States.

7 The evidence in this case demonstrated that Mr. Bullock,
8 whose approval as a designated manager was sought, was convicted
9 of a felony on June 12, 1995 in the United States District
10 Court, Eastern District of Virginia (see Judgment in a Criminal
11 Case, Exhibit 1). Therefore, cause exists which would justify
12 the Board in refusing to issue such person a license, as set
13 forth in Code Section 4.1-222 A.1.(b), *supra*. Additionally, Mr.
14 Bullock committed an act that would justify the Board in
15 suspending or revoking a license, as set forth in Code Section
16 4.1-225 1.d., *supra*. Consequently, the Board has authority
17 under the provisions of 3 VAC 5-50-40 B. to approve or
18 disapprove him as a designated manger.

19 The Hearing Officer has concluded that, based upon the
20 evidence submitted, Mr. Bullock's approval to serve in this
21 capacity should be granted. Although Mr. Bullock was convicted
22 of a felony in January 1995, he served six years in prison and
23 subsequently obtained an early release from supervised
24 probation. On October 5, 2010, Governor McDonnell restored his
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1 civil rights, including the right to vote, become a notary
2 public, serve on a jury and run for public office. This action
3 was based upon Mr. Bullock's successful completion of all
4 obligations of his sentence, his record since conviction and
5 potential and desire to be a valuable asset to the Commonwealth
6 (see Exhibit 1).

7 Notable is the fact that Mr. Bullock owns and operates
8 Kebco Enterprises, Inc. and Kebco of Virginia Hauling, Inc.,
9 through which he has made significant contributions to the
10 community. Based upon his record and such contributions, on
11 December 13, 2011 the Norfolk City Council amended a Special
12 Exception for An Entertainment Establishment to modify the
13 identified managers and added Mr. Bullock's name to the list
14 (see Exhibits 5 and 6). It is recognized that the action of the
15 City Council is not binding upon the ABC Board. However, it
16 constitutes some indicia of how Mr. Bullock has been perceived
17 by other entities considering the same question.
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19 For all of these reasons, the licensee's request that Mr.
20 Bullock be approved as a designated manager should be granted.

21 Accordingly, the following DECISION is entered.
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25 **DECISION:**

1 **(Wine and Beer On Premises)**

2 **(Mixed Beverage Restaurant)**

3 That Mr. Kenneth Bullock shall be approved as a designated
4 manager of The Palace, Inc., t/a The Palace on Plume St. No
5 administrative penalty is imposed for the charge brought.

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7 Entered this 14th day of February 2012.

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9 *Clara A. Williamson* _____

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11 Clara A. Williamson
12 Administrative Hearing Officer
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